



**SO ORDERED.**

**SIGNED this 29 day of June, 2010.**

  
**Stephani W. Humrickhouse**  
**United States Bankruptcy Judge**

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA**

**IN RE:** ) **CASE NO.: 09-09697-8-SWH**  
**PETER MICHAEL FANTASIA, JR.** )  
 ) **CHAPTER 7**  
**DEBTOR** )

**ORDER AVOIDING LIEN**

This matter comes before the Court upon debtor's Motion to Avoid Lien and it appearing to the Court that debtors served a copy of the Motion and Notice of Motion on the appropriate parties; and

**IT APPEARING FURTHER** to the Court that the time for those parties to respond has expired with no response having been filed. From debtor's uncontroverted motion the Court makes the following findings of fact:

1. That this matter is a core proceeding pursuant to 28 U.S.C. Section 157 and that the court has jurisdiction pursuant to 28 U.S.C. §§ 151, 157 and 1334.
2. Among the creditors listed in the Debtor's Chapter 7 petition and schedules is Gailor Wallis & Hunt, PLLC (hereinafter, the "Creditor") in the amount of \$58,668.56 due as of the May 25, 2010.
3. The creditor has obtained a judgment in connection with case number 08 CVD 000106 against the debtor in Wake County on October 10, 2008.

4. The lien of the Creditor on the property impairs the Debtor's right to exemptions in the real property located at 7941 Secluded Acres Rd Apex, NC 27502. More particularly described in Wake County Register of Deeds Book 08559 Page 01578 -15800 as:

BEING all that property situated in Buck Horn Township, Wake County, North Carolina and being more particularly described as follows:

BEGINNING at an existing iron pin in the eastern most right-of-way of North Carolina State Road 1783 (also known as Secluded Acres Road); said point being located approximately 0.4 miles South of the intersection of North Carolina State Road 1783 and North Carolina State Road 1782; proceeding from said point and place of beginning South 85 degrees 02' 37" East 375.23 feet to an existing iron pin; thence South 05 degrees 07' 17" West 227.30 feet to an axle; thence North 86 degrees 40' 09" West 380.59 feet to an existing iron pin in the eastern most right-of-way of North Carolina State Road 1783; thence along the eastern right-of-way of North Carolina State Road 1783 South 06 degrees 21' 59" West 238.16 feet to the point and place of beginning, being a 2.01 acre tract of land as shown on survey entitled "Property of Marlin E. Spehar" prepared by Barry L. Scott, R.L.S., dated January 27, 1991, to which reference is made for a more exact description; also being the same property conveyed by Deed recorded in Book 2652, Page 381, Wake

County Registry and the property designated as “Daniel Lamson” as shown on a map recorded in Book of Maps 1974, Page 416, Wake County Registry, North Carolina.

5. The market value and superior liens are as follows:
  1. Market value of the property is \$74,500.00;
  2. First lien to Wake County Tax office for past due ad valorem taxes in the amount of \$1024.12;
  3. Lien to SunTrust in the approximate amount of \$75,648.98
  4. There is no equity in this property above its liens.
6. The Debtor is entitled to an exemption in the property, the value of which cannot exceed \$35,000.00 each pursuant to N.C.G.S. 1C-1601(a)(1). The value of the Debtor’s interest in the Property is \$0.00, and therefore he is entitled to claim his entire interest in the property as exempt.

**IT IS ORDERED, ADJUDGED AND DECREED** that said motion to avoid judicial lien be, and hereby is allowed, and

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the liens of Gailor Wallis & Hunt, PLLC on the property of the debtor as herein and before noted in the findings of fact is avoided in its entirety.

**END OF DOCUMENT**